HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Appeal No. 319 OF 2007

Between:

P.V. Ranganayakulu

……Appellant

And

The Government of Andhra Pradesh,
Rep.by it s Principal Secretary to Govt.,
Revenue (Endts.III) Department,
Secretariat Buildings, Hyderabad and another

……Respondents

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:: JUDGMENT ::

Counsel for the appellant : Shri P. Ramswara Prasad
for Shri V. Mallik

April 27, 2007

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 08.03.2007 passed by the learned Single Judge, whereby he declined to issue mandamus

to the respondents to fix the appellant's seniority in the cadre of Lecturers of S.V. Ayurvedic College, Tirupati (for short, 'the college') by taking into consideration total length of service.

The Facts:

(1) In response to the requisition sent by Tirumala Tirupati Devasthanam (for short, 'the TTD'), the Employment Officer forwarded the appellant's name for appointment as Lecturer in the college. He appeared in the written examination conducted by the TTD. On being declared successful, the appellant was appointed as Lecturer for six months on consolidated pay subject to the condition that he could be replaced on the availability of regularly selected person. He joined duty on 08.01.1987.

(2) On 06.03.1987,Executive Officer, TTD issued advertisement for regular recruitment of Professors, Assistant Professors, Lecturers, Demonstrators in various departments of the college apart from Physician/Junior Medical Officer, R.M.O., Librarian etcetera. The appellant applied for the post of Lecturer. He was interviewed by the Staff Selection Committee, which recommended his case. The Managing Committee of TTD accepted the recommendations. Thereafter, as per the directions of the Executive Officer, TTD, the petitioner was appointed as temporary lecturer vide proceedings in Roc.No.D6/4469/DEC/86 dated 23.09.1987 issued by Devasthanam Educational Officer, TTD. The appellant submitted fresh joining report on 25.09.1987.

(3) After four years, Executive Officer, TTD issued memo in Roc.No.D6/29353/91 dated 17.09.1991, whereby the appellant was declared as approved probationer with effect from 25.09.1989.

(4) On 07.02. 1992, the Devasthanam Educational Officer, TTD issued provisional seniority list of Lecturers working in the

college. The appellant's name was shown at Sl.No.4. He submitted representation for fixation of seniority on the basis of total length of service. Similar representation was made by Shri R. Seetharama Rao, who was shown at Sl.No.5. Both the representations were rejected by the competent authority and final seniority list was circulated vide memo dated 03.07.1992 issued by Executive Officer, TTD.

(5) The appellant questioned the final seniority list by filing an appeal under Section 120(ii) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987. The same was dismissed by the Managing Committee of TTD. The appellant was informed about this vide memo dated 26/27.08.1993. Further appeal preferred by him was rejected by the State Government vide memo dated 18.07.1994.

(6) After about five years, the appellant filed review petition, which was dismissed by the government vide memo dated 18.06.1999.

(7) Having failed to persuade the concerned authorities of TTD to fix his seniority on the basis of total length of service, the appellant filed Writ Petition No.25077 of 2000 for grant of following relief:

> " For the reasons stated above, it is therefore prayed that this Hon'ble Court may be pleased to issue a writ of mandamus, or any other appropriate writ order or direction, declaring the proceedings of the 2nd respondent issued in Roc.No.B2/36667/92 dt. 31.8.1993 in placing the petitioner at Sl.No.10 in the final seniority list without treating his date of joining as 8.1.1987 and the consequential orders of the 1st respondent issued in Memo No.94742/Endts.III/A1/93-2 dt. 18.7.1994 and the proceedings in Memo No.33731/Endts.III/A1/95-7 dt. 18.6.1999 in confirming the final seniority list prepared by the 2nd respondent and rejecting the appeal and review filed by the petitioner by the 1st respondent as illegal, arbitrary,

violative of principles of natural justice land consequently direct the respondents to place the petitioner at Sl.No.2 by revising the final seniority list dt. 31.8.1993 and consider his case for promotion to the next higher post forthwith and pass such other order or orders as deem fit and proper."

In the affidavit filed by him, the appellant claimed that he was initially appointed as Lecturer after due selection and, therefore, his seniority should be fixed by counting his service from 08.01.1987.

In the counter filed by Shri P. Krishnaiah, the then Executive Officer, TTD, it was averred that the appellant was initially appointed on consolidated salary for a limited period of six months or till the availability of regularly selected person and that he was regularly appointed with effect from 25.09.1987 and, as such, his seniority was fixed by taking into consideration the period of service from 25.09.1987.

The learned Single Judge held that the service rendered by the petitioner (the appellant herein) prior to his regular appointment cannot be counted for the purpose of fixation of seniority in the cadre of Lecturers because the same was not preceded by advertisement and regular selection.

We have heard Shri P. Rameswara Prasad. In our opinion, there is no merit in the appellant's claim that his seniority should be fixed in the cadre of Lecturers from the date of initial appointment i.e. 08.01.1987. It is neither the pleaded case of the appellant nor the learned counsel argued that his client's appointment as Lecturer on consolidated pay for a fixed period of six months was preceded by advertisement of regular post and selection by the competent agency. It is also not in dispute that the appellant's initial appointment was for a period of six months or till the availability of regularly selected persons and that he was regularly appointed with effect from 25.09.1987. Therefore, the learned Single Judge did not commit any error by refusing to entertain the appellant's prayer for fixation of his seniority

on the basis of total length of service and we do not see any reason to take a different view.

We are further of the view that the learned Single Judge would have been fully justified in dismissing the writ petition on the ground of laches. Admittedly, the final seniority list was issued on 31.08.1993 and the writ petition was filed in the year 2000 i.e. after a long time gap of seven years. The appeals preferred by the appellant against the final seniority list were dismissed by TTD and the State Government on 26/27.08.1993 and 18.07.1994 respectively. If the time spent in the filing and disposal of the appeals is excluded, then too the writ petition was delayed by six years. The appellant did not offer any explanation for this long delay. Therefore, the learned Single Judge should have declined to entertain his prayer. It is settled law that even though no period of limitation has been prescribed for filing writ petition under Article 226 of the Constitution of India, the High Court should ordinarily refrain from entertaining a petition filed after expiry of the limitation prescribed for filing civil suit. In this connection, we may usefully refer to the judgments of the Supreme Court in **State of M.P. v. Bhailal Bhai**[1], **Rabindra Nath Bose v. Union of India**[2], **Haryana State Coop. Land Development Bank v. Neelam**[3], **Cheripalli Madar v. Asstt. Division Engineers**[4], **Karnataka Power Corpn. Ltd. V. K. Thangappan**[5], **Roshanlal v. International Airport Authority of India**[6] **and UP Jal Nigam v. Jaswant Singh**[7].

There is another fatal flaw in the constitution of the writ petition namely non-impleadment of necessary parties. In the final seniority list, the appellant's name was shown at Sl.No.10. He challenged the same and pleaded that he was entitled to be placed at Sl.No.1. If his claim is accepted, all the Lecturers placed above him are bound to be adversely affected. However, as none of them has been impleaded as party to the writ petition, this Court cannot entertain the appellant's

prayer and direct the TTD authorities to fix his seniority over and above his so-called juniors. This view of ours is based on the judgments of the Supreme Court in **Prabodh Verma v. State of U.P.**[8], **Indu Sekhar Singh v. State of U.P.**[9], **Suraj Prakash Gupta v. State of J & K**[10], **M.K. Shanmugam v. Union of India**[11], **Keshav Deo v. State of U.P.**[12], **Swapan Kumar Pal v. Samitabhar Chakraborty**[13] and **Md. Israils v. State of West Bengal**[14].

In the result, the writ appeal is dismissed.

As a sequel to dismissal of the main appeal, W.A.M.P.No.616 of 2007 filed by the appellant for interim relief is also dismissed.

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G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

27.04.2007
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[1] AIR 1964 SC 1006
[2] AIR 1970 SC 470
[3] (2005) 5 SCC 91
[4] (2005) 11 SCC 546
[5] (2006) 4 SCC 322
[6] AIR 1981 SC 597
[7] (2006) 11 SCC 464
[8] (1984) 4 SCC 251
[9] (2006) 8 SCC 129

[10] (2000) 7 SCC 561

[11] (2000) 4 SCC 476

[12] (1999) 1 SCC 280

[13] (2001) 5 SCC 581

[14] (2002) 2 SCC 306